

1  
2  
3  
4  
5  
6  
7 **UNITED STATES DISTRICT COURT**  
8 **EASTERN DISTRICT OF CALIFORNIA**  
9

10 ERNIE HERNANDEZ, III,

11 Plaintiff,

12 v.

13 A. HOLT, et al.,

14 Defendants.  
15

Case No. 1:20-cv-01127-AWI-SAB

ORDER ADOPTING FINDINGS AND  
RECOMMENDATIONS AND DISMISSING  
ACTION WITHOUT LEAVE TO AMEND  
FOR FAILURE TO STATE A CLAIM

(ECF Nos. 21, 22)

16 Ernie Hernandez, III (“Plaintiff”), a state prisoner, is appearing *pro se* and *in forma*  
17 *pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed a first amended  
18 complaint on February 26, 2021 that was referred to a United States magistrate judge pursuant to  
19 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

20 On March 3, 2021, the magistrate judge filed a findings and recommendations  
21 recommending that Plaintiff’s first amended complaint be dismissed without leave to amend for  
22 failure to state a claim and this action be dismissed. (ECF No. 22.) The findings and  
23 recommendations was served on Plaintiff and contained notice that any objections to the findings  
24 and recommendations were to be filed within thirty days from the date of service. The period for  
25 filing objections has passed and no objections have been filed.

26 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this court has conducted a  
27 *de novo* review of this case. Having carefully reviewed the entire file, the court finds the  
28 findings and recommendations to be supported by the record and by proper analysis.

1 Accordingly, IT IS HEREBY ORDERED that:

- 2 1. The findings and recommendations, filed March 3, 2021, is ADOPTED IN FULL;  
3 2. Plaintiff's first amended complaint, filed February 26, 2021, is DISMISSED  
4 WITHOUT LEAVE TO AMEND for failure to state a claim;  
5 3. This action is DISMISSED for Plaintiff's failure to state a claim; and  
6 4. The Clerk of the Court is DIRECTED to close this matter.

7  
8 IT IS SO ORDERED.

9 Dated: May 18, 2021

  
\_\_\_\_\_  
SENIOR DISTRICT JUDGE